IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 9871 of 1999

Dated: 17.04.2007

Between:
K.Chandramouli

.....
PETITIONER

AND

1.The Sub Registrar, Stamps and
Registration, Chikkadapally, Hyderabad
and 3 others …
RESPONDENTS

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO.9871 of 1999

ORDER:

This writ petition is filed seeking quashing of the proceedings of the 1st respondent bearing Letter No.328/98 dated 31.08.1998 and to direct the respondents to pay a sum of Rs.51,311/- to the petitioner pursuant to the stamp duty collected on the registered sale deed.

The case of the petitioner is that he was allotted a residential house bearing No.98 EWS2, ward No.2, block No.6, Door No.212/64/98 at Parsigutta, Municipal colony, Hyderabad, in the year 1975. The allotment was based on payment of sale consideration on instalments. The petitioner has paid entire sale consideration and, therefore, he requested the 3rd respondent to register the sale deed and accordingly the 3rd respondent has registered the sale deed on 25.11.1997. It is stated that respondents 1 and 2 wrongly calculated and assessed the market value of the petitioner's house and collected excess stamp duty. It is further stated that the petitioner

made a representation seeking refund of the excess amount of stamp duty paid by him, but the 1st respondent issued the impugned order dated 31.08.1998, rejecting the claim of the petitioner. Hence the writ petition.

Respondents did not choose to file any counter-affidavit in spite of granting sufficient time.

Heard both sides.

Learned Counsel for the petitioner has drawn my attention to a decision of this Court in L.R.VENKATESWARAN Vs. THE GOVERNMENT OF ANDHRA PRADESH REPRESENTED BY ITS SECRETARY, REVENUE (UU) DEPARTMENT, wherein it is held as under:

> "Stamp duty is payable only on the sale price fixed by the Housing Board and the petitioner is entitled to refund of excess registration fee paid by him".

In the aforesaid decision, this Court has interpreted the notification issued by the Government in G.O.Ms.No.522 Revenue, dated 20th July 1988 under clause (a) of sub Section (1) of Section 9 of the Indian Stamp Act reducing stamp duty payable by the allottees of the A.P. Housing Board:

> "by limiting the stamp duty to the amount arrived at on a computation of the same only on the value of the houses finally fixed by the A.P. Housing Board at the time of registering the transfer of title in favour of the allottees."

This beneficial measure is applicable to all cases

where there has been no escalation in the sale price fixed by the Housing Board. No doubt, the notification issued in G.O.Ms.NO.522 Revenue is the result of the decision taken by the Government on the representation of the Housing Board after consulting the Inspector General of Stamps and Registration. However, it does not mean that the said G.O has no application to the case on hand. The benefit conferred by the notification issued in G.O.Ms.NO.522 is applicable to the present case also. Therefore, this Court is of the view that the petitioner is also entitled to the relief sought for.

The writ petition is accordingly allowed and the respondents are directed to refund the excess amount of Rs.51,371/- paid by the petitioner towards stamp duty on the registered sale deed.

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(GOPALA KRISHNA TAMADA, J)

17-04-2007
Gsn.